



**CITY OF  
MESA**

*Great People, Quality Service!*

**BOARD OF  
ADJUSTMENT  
MINUTES**

**September 9, 2003**

**Board members Present:**

Jared Langkilde, Chair  
Roxanne Pierson, Vice Chair  
Jennifer Gniffke  
Greg Lambright  
Mike Clement  
David Shuff

**Staff Present:**

Gordon Sheffield  
David Nicolella  
Krissa Hargis  
Gabriel Medina

**Board members absent:**

Webb Crockett (Excused)

**Others Present:**

Doug Merritt  
Kyle Bach  
Robert M. McNichols  
Diana Rinck  
Sally Stephen  
Michael L. Fraccola  
Carol Tipotsch  
Others

Before adjournment at 7:40 p.m., the following items were considered and recorded on Board of Adjustment Tape # 294.

**Study Session 4:30 p.m.**

- A. The study session began at 4:30 p.m. The items scheduled for the Board's Public Hearing were discussed.

**Public Hearing 5:30 p.m.**

- A. Consider Minutes from the August 12, 2003 Meeting:

It was moved by Boardmember Shuff, and seconded by Boardmember Gniffke, that the minutes of the August 12, 2003 Board of Adjustment meeting be approved.

Vote: Passed 6-0

**Board of Adjustment Meeting  
September 9, 2003**

Case No.: BA03-033

Location: 6015 East Brown Road

Subject: Requesting a modification of a Special Use Permit for a Comprehensive Sign Plan to allow additional attached signs and increased sign area for a drug store in the C-2 district.

Decision: Denied

Summary: Doug Merritt, represented all cases BA03-34 through BA03-038, and requested to present a general overview of all six cases at once. In response, Chair Langkilde polled the Board, and responded that presenting several cases at one time would be acceptable. Mr. Sheffield noted that after the presentation the Board would be required to decide each case with a separate vote.

Mr. Merritt then began with a PowerPoint presentation, which included displays of prototypical CVS sign packages that are used across the country. He explained that if the prototypical sign package does not comply with local ordinances, CVS representatives will study the site and design a sign package specific to the site and local ordinance. He stated, "What we like to do is study a site specifically and design a sign program based on the site characteristics and the physical needs of that site. We apply what is called the viewer reaction time. It's an equation we use to find what the appropriate size sign is needed to allow a driver to see a sign and pull into the site in a safe and efficient manner. The relief requested this evening is to allow the non-illuminated sign modifiers to be included in the sign package. That will cause the sign to exceed the ordinance requirement by approximately 55 square feet".

Boardmember Clement asked Mr. Sheffield whether non-illuminated modifiers have any bearing on how the Board should be evaluating these requests. Mr. Sheffield responded that it does not, and that CVS is allowed to illuminate their signs but the applicant has chosen not to do so in this instance. Continuing, he stated the problem with the CVS proposal involves an argument that the Sign Ordinance should apply to everyone else but them, that they are trying to justify their request by stating that the code is wrong and that type of argument cannot be used as justification for a variance or a comprehensive sign plan. Mr. Sheffield indicated that all of the CVS locations have a normal presentation to the street, a building size that is considered normal for a retail use, and should be treated in a manner equal to the other corner-type drug stores such as Eckerd's and Walgreen's. Each of these companies is permitted attached sign area of up to 160 square feet. For example, CVS may have two building signs of 80 square feet each rather than the 107 sqft proposed. The question then becomes "how much do you want to put into that 80 square feet?" The applicant has chosen not to put three modifiers into the 80 square feet. Their competitors have chosen to modify their "standard signs" to largely comply with Mesa standards. Rather, CVS has



**Board of Adjustment Meeting  
September 9, 2003**

Case No.: BA03-034

Location: 1212 South Greenfield Road

Subject: Requesting a modification of a Special Use Permit for a Comprehensive Sign Plan to allow additional attached signs and increased sign area for a drug store in the C-2 district.

Decision: Denied

Summary: Doug Merritt, represented all cases BA03-34 through BA03-038, and requested to present a general overview of all six cases at once. In response, Chair Langkilde polled the Board, and responded that presenting several cases at one time would be acceptable. Mr. Sheffield noted that after the presentation the Board would be required to decide each case with a separate vote.

Mr. Merritt then began with a PowerPoint presentation, which included displays of prototypical CVS sign packages that are used across the country. He explained that if the prototypical sign package does not comply with local ordinances, CVS representatives will study the site and design a sign package specific to the site and local ordinance. He stated, "What we like to do is study a site specifically and design a sign program based on the site characteristics and the physical needs of that site. We apply what is called the viewer reaction time. It's an equation we use to find what the appropriate size sign is needed to allow a driver to see a sign and pull into the site in a safe and efficient manner. The relief requested this evening is to allow the non-illuminated sign modifiers to be included in the sign package. That will cause the sign to exceed the ordinance requirement by approximately 55 square feet".

Boardmember Clement asked Mr. Sheffield whether non-illuminated modifiers have any bearing on how the Board should be evaluating these requests. Mr. Sheffield responded that it does not, and that CVS is allowed to illuminate their signs but the applicant has chosen not to do so in this instance. Continuing, he stated the problem with the CVS proposal involves an argument that the Sign Ordinance should apply to everyone else but them, that they are trying to justify their request by stating that the code is wrong and that type of argument cannot be used as justification for a variance or a comprehensive sign plan. Mr. Sheffield indicated that all of the CVS locations have a normal presentation to the street, a building size that is considered normal for a retail use, and should be treated in a manner equal to the other corner-type drug stores such as Eckerd's and Walgreen's. Each of these companies are permitted attached sign areas of up to 160 square feet. For example, CVS may have two building signs of 80 square feet each rather than the 107 sqft proposed. The question then becomes "how much do you want to put into that 80 square feet?" The applicant has chosen not to put three modifiers into the 80 square feet. Their competitors have chosen to modify their "standard signs" to largely comply with Mesa standards. Rather, CVS has chosen to try to increase the available sign area to

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accommodate the modifier or accessory signs. Mr. Sheffield felt the case should be denied because CVS has other options including reducing their attached sign area and relocating the copy for the modifier signs to the sign copy for the monument signs.

In response, Mr. Merrit indicated that the larger signs would be needed because his office had studied the issue, and tried to work within the Mesa Sign Ordinance requirements to develop a sign package. Because the Sign Ordinance limited the number of attached signs, their proposal has used the standard CVS illuminated signs, and positioned the non-illuminated modifier signs directly underneath the CVS/pharmacy copy. This allowed both the identity sign and the modifier signs to be counted as "one sign" for the purposes of calculating the official number of signs. The additional sign area for the modifier signs was needed to provide CVS customers with appropriate notification of the variety of services offered at that location.

Boardmember Schuff indicated that he did not believe the potential customers of CVS would have difficulty seeing 80 sqft signs on the buildings, and that similar stores such as Walgreen's had largely complied with Sign Ordinance maximums. Chair Langkilde agreed.

Motion: It was moved by Mr. Shuff, seconded by Mr. Lambright, that BA03-034 be denied.

Vote: Passed 6-0

Finding of Fact:

- 1.1 The applicant requested to modify an existing Comprehensive Sign Plan by removing one detached sign and increasing the number of attached signs from 3 to 5 and increasing the sign area from 160 sq. ft. to 235 sq. ft.
- 1.2 There are no unique conditions that exist on this site to justify an increase in size and area of the attached signage. The building size and proximity to the street are typical for this type of retail use.
- 1.3 If the applicant were held to strict compliance of the Sign Ordinance, they would be allowed 3 attached signs with an area of 160 sq. ft. and monument signs not to exceed 12 feet in height and 80 sq. ft. in area, as per Section 11-19-6(E) of the Zoning Ordinance. Such an allowance would provide adequate sign area to the applicant to identify the business name and any services provided within the store.

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Case No.: BA03-035

Location: 9152 East Brown Road

Subject: Requesting a variance to allow additional attached signs and increased sign area for a drug store in the C-2 district.

Decision: Denied

Summary: Doug Merritt, represented all cases BA03-34 through BA03-038, and requested to present a general overview of all six cases at once. In response, Chair Langkilde polled the Board, and responded that presenting several cases at one time would be acceptable. Mr. Sheffield noted that after the presentation the Board would be required to decide each case with a separate vote.

Mr. Merritt then began with a PowerPoint presentation, which included displays of prototypical CVS sign packages that are used across the country. He explained that if the prototypical sign package does not comply with local ordinances, CVS representatives will study the site and design a sign package specific to the site and local ordinance. He stated, "What we like to do is study a site specifically and design a sign program based on the site characteristics and the physical needs of that site. We apply what is called the viewer reaction time. It's an equation we use to find what the appropriate size sign is needed to allow a driver to see a sign and pull into the site in a safe and efficient manner. The relief requested this evening is to allow the non-illuminated sign modifiers to be included in the sign package. That will cause the sign to exceed the ordinance requirement by approximately 55 square feet".

Boardmember Clement asked Mr. Sheffield whether non-illuminated modifiers have any bearing on how the Board should be evaluating these requests. Mr. Sheffield responded that it does not, and that CVS is allowed to illuminate their signs but the applicant has chosen not to do so in this instance. Continuing, he stated the problem with the CVS proposal involves an argument that the Sign Ordinance should apply to everyone else but them, that they are trying to justify their request by stating that the code is wrong and that type of argument cannot be used as justification for a variance or a comprehensive sign plan. Mr. Sheffield indicated that all of the CVS locations have a normal presentation to the street, a building size that is considered normal for a retail use, and should be treated in a manner equal to the other corner-type drug stores such as Eckerd's and Walgreen's. Each of these companies are permitted attached sign areas of up to 160 square feet. For example, CVS may have two building signs of 80 square feet each rather than the 107 sqft proposed. The question then becomes "how much do you want to put into that 80 square feet?" The applicant has chosen not to put three modifiers into the 80 square feet. Their competitors have chosen to modify their "standard signs" to largely comply with Mesa standards. Rather, CVS has chosen to try to increase the available sign area to accommodate the modifier or accessory signs. Mr. Sheffield felt the case



**Board of Adjustment Meeting  
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Case No.: BA03-036

Location: 360 North Val Vista Drive

Subject: Requesting a variance to allow additional attached signs and increased sign area for a drug store in the C-2 district.

Decision: Denied

Summary: Doug Merritt, represented all cases BA03-34 through BA03-038, and requested to present a general overview of all six cases at once. In response, Chair Langkilde polled the Board, and responded that presenting several cases at one time would be acceptable. Mr. Sheffield noted that after the presentation the Board would be required to decide each case with a separate vote.

Mr. Merritt then began with a PowerPoint presentation, which included displays of prototypical CVS sign packages that are used across the country. He explained that if the prototypical sign package does not comply with local ordinances, CVS representatives will study the site and design a sign package specific to the site and local ordinance. He stated, "What we like to do is study a site specifically and design a sign program based on the site characteristics and the physical needs of that site. We apply what is called the viewer reaction time. It's an equation we use to find what the appropriate size sign is needed to allow a driver to see a sign and pull into the site in a safe and efficient manner. The relief requested this evening is to allow the non-illuminated sign modifiers to be included in the sign package. That will cause the sign to exceed the ordinance requirement by approximately 55 square feet".

Boardmember Clement asked Mr. Sheffield whether non-illuminated modifiers have any bearing on how the Board should be evaluating these requests. Mr. Sheffield responded that it does not, and that CVS is allowed to illuminate their signs but the applicant has chosen not to do so in this instance. Continuing, he stated the problem with the CVS proposal involves an argument that the Sign Ordinance should apply to everyone else but them, that they are trying to justify their request by stating that the code is wrong and that type of argument cannot be used as justification for a variance or a comprehensive sign plan. Mr. Sheffield indicated that all of the CVS locations have a normal presentation to the street, a building size that is considered normal for a retail use, and should be treated in a manner equal to the other corner-type drug stores such as Eckerd's and Walgreen's. Each of these companies are permitted attached sign areas of up to 160 square feet. For example, CVS may have two building signs of 80 square feet each rather than the 107 sqft proposed. The question then becomes "how much do you want to put into that 80 square feet?" The applicant has chosen not to put three modifiers into the 80 square feet. Their competitors have chosen to modify their "standard signs" to largely comply with Mesa standards. Rather, CVS has chosen to try to increase the available sign area to accommodate the modifier or accessory signs. Mr. Sheffield felt the case



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Case No.: BA03-037

Location: 9950 East Guadalupe Road

Subject: Requesting a variance to allow additional attached signs and increased sign area for a drug store in the C-2 district.

Decision: Denied

Summary: Doug Merritt, represented all cases BA03-34 through BA03-038, and requested to present a general overview of all six cases at once. In response, Chair Langkilde polled the Board, and responded that presenting several cases at one time would be acceptable. Mr. Sheffield noted that after the presentation the Board would be required to decide each case with a separate vote.

Mr. Merritt then began with a PowerPoint presentation, which included displays of prototypical CVS sign packages that are used across the country. He explained that if the prototypical sign package does not comply with local ordinances, CVS representatives will study the site and design a sign package specific to the site and local ordinance. He stated, "What we like to do is study a site specifically and design a sign program based on the site characteristics and the physical needs of that site. We apply what is called the viewer reaction time. It's an equation we use to find what the appropriate size sign is needed to allow a driver to see a sign and pull into the site in a safe and efficient manner. The relief requested this evening is to allow the non-illuminated sign modifiers to be included in the sign package. That will cause the sign to exceed the ordinance requirement by approximately 55 square feet".

Boardmember Clement asked Mr. Sheffield whether non-illuminated modifiers have any bearing on how the Board should be evaluating these requests. Mr. Sheffield responded that it does not, and that CVS is allowed to illuminate their signs but the applicant has chosen not to do so in this instance. Continuing, he stated the problem with the CVS proposal involves an argument that the Sign Ordinance should apply to everyone else but them, that they are trying to justify their request by stating that the code is wrong and that type of argument cannot be used as justification for a variance or a comprehensive sign plan. Mr. Sheffield indicated that all of the CVS locations have a normal presentation to the street, a building size that is considered normal for a retail use, and should be treated in a manner equal to the other corner-type drug stores such as Eckerd's and Walgreen's. Each of these companies are permitted attached sign areas of up to 160 square feet. For example, CVS may have two building signs of 80 square feet each rather than the 107 sqft proposed. The question then becomes "how much do you want to put into that 80 square feet?" The applicant has chosen not to put three modifiers into the 80 square feet. Their competitors have chosen to modify their "standard signs" to largely comply with Mesa standards. Rather, CVS has chosen to try to increase the available sign area to accommodate the modifier or accessory signs. Mr. Sheffield felt the case

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should be denied because CVS has other options including reducing their attached sign area and relocating the copy for the modifier signs to the sign copy for the monument signs.

In response, Mr. Merrit indicated that the larger signs would be needed because his office had studied the issue, and tried to work within the Mesa Sign Ordinance requirements to develop a sign package. Because the Sign Ordinance limited the number of attached signs, their proposal has used the standard CVS illuminated signs, and positioned the non-illuminated modifier signs directly underneath the CVS/pharmacy copy. This allowed both the identity sign and the modifier signs to be counted as "one sign" for the purposes of calculating the official number of signs. The additional sign area for the modifier signs was needed to provide CVS customers with appropriate notification of the variety of services offered at that location.

Boardmember Schuff indicated that he did not believe the potential customers of CVS would have difficulty seeing 80 sqft signs on the buildings, and that similar stores such as Walgreen's had largely complied with Sign Ordinance maximums. Chair Langkilde agreed.

Motion: It was moved by Mr. Clement, seconded by Mr. Gniffke, that BA03-037 be denied.

Vote: Passed 6-0

Finding of Fact:

- 1.1 The applicant has requested total attached sign area in excess of the maximum permitted by the Sign Ordinance. For the variance to be approved, the applicant is required to show that on-site circumstances are present that would prevent compliance on a normal or reasonable basis.
- 1.2 The site is a typical corner commercial parcel. Visibility of the site is not limited by topography or by unusual physical features.
- 1.3 The CVS building is to be located about 105' from the street. This is as close to the street front as is possible under current site development standards when double loaded parking aisles are used in front of the store.
- 1.4 Attached and detached signs will be visible on both street fronts.
- 1.5 Unusual or special circumstances are not present.

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Case No.: BA03-038

Location: 5954 East McDowell Road

Subject: Requesting a variance to allow additional attached signs and increased sign area for a drug store in the C-2 district.

Decision: Denied

Summary: Doug Merritt, represented all cases BA03-34 through BA03-038, and requested to present a general overview of all six cases at once. In response, Chair Langkilde polled the Board, and responded that presenting several cases at one time would be acceptable. Mr. Sheffield noted that after the presentation the Board would be required to decide each case with a separate vote.

Mr. Merritt then began with a PowerPoint presentation, which included displays of prototypical CVS sign packages that are used across the country. He explained that if the prototypical sign package does not comply with local ordinances, CVS representatives will study the site and design a sign package specific to the site and local ordinance. He stated, "What we like to do is study a site specifically and design a sign program based on the site characteristics and the physical needs of that site. We apply what is called the viewer reaction time. It's an equation we use to find what the appropriate size sign is needed to allow a driver to see a sign and pull into the site in a safe and efficient manner. The relief requested this evening is to allow the non-illuminated sign modifiers to be included in the sign package. That will cause the sign to exceed the ordinance requirement by approximately 55 square feet".

Boardmember Clement asked Mr. Sheffield whether non-illuminated modifiers have any bearing on how the Board should be evaluating these requests. Mr. Sheffield responded that it does not, and that CVS is allowed to illuminate their signs but the applicant has chosen not to do so in this instance. Continuing, he stated the problem with the CVS proposal involves an argument that the Sign Ordinance should apply to everyone else but them, that they are trying to justify their request by stating that the code is wrong and that type of argument cannot be used as justification for a variance or a comprehensive sign plan. Mr. Sheffield indicated that all of the CVS locations have a normal presentation to the street, a building size that is considered normal for a retail use, and should be treated in a manner equal to the other corner-type drug stores such as Eckerd's and Walgreen's. Each of these companies are permitted attached sign areas of up to 160 square feet. For example, CVS may have two building signs of 80 square feet each rather than the 107 sqft proposed. The question then becomes "how much do you want to put into that 80 square feet?" The applicant has chosen not to put three modifiers into the 80 square feet. Their competitors have chosen to modify their "standard signs" to largely comply with Mesa standards. Rather, CVS has chosen to try to increase the available sign area to accommodate the modifier or accessory signs. Mr. Sheffield felt the case



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Case No.: BA03-039

Location: 5122 East University Drive.

Subject: Requesting a Special Use Permit for a Comprehensive Sign Plan for the development of a Wal-Mart Neighborhood Market in the C-2 district.

Decision: Denied

Summary: Mike Semrick addressed the Board stating that the Wal-Mart Neighborhood Market is new to the valley and he is trying to create a uniform sign package for all the Neighborhood Markets located in Mesa. He stated he is asking for is a minimal increase in attached sign area to communicate to potential customers what services are available within the store. Mr. Semrick stated that he is not able to reduce the sign area of the sign modifiers as requested by staff because the size of the modifier signage is standard for every Wal-Mart Neighborhood Market store across the country. It is a manufactured 2-foot can and that the Wal-Mart sign shop is not set up to do a 1 ½ foot modifier.

Boardmember Langkilde asked whether Wal-Mart would put up the modifier signs if the Special Use Permit were denied or would they make an adjustment. Mr. Semrick replied they would do without the signs and not have the ability to communicate that service. Boardmember Shuff added that he sees the request as a self imposed hardship because Wal-Mart is simply refusing to modify their sign because of cost. Boardmember Lambright stated that Mesa has one of the most liberal sign codes in the valley and that if Wal-Mart can't meet Mesas' requirements then they were not going to be able to put them up elsewhere. He felt that Wal-Mart should fall within the requirements that staff has recommended. Boardmember Langkilde stated that he believes that Wal-Mart should meet the code requirement and not get any additional signage.

Motion: It was moved by Mr. Lambright, seconded by Mr. Shuff, that caseBA03-039 be denied:

Vote: Passed 6-0

Finding of Fact:

- 1.1. The proposed development includes a 39,000 sq.ft. Wal-Mart Neighborhood Market in the C-2 district.
- 1.2. The applicant requested a Comprehensive Sign Plan to increase the allowable sign area of 160 sq. ft. to 190 sq. ft.
- 1.3. The Board felt that there were not any special circumstances or unique conditions that existed on this site to justify an increase in attached sign area or an increase in height to the monument signs.

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- 1.4. If the request to increase the amount of attached sign area were granted, The Board believed the decision would grant special privilege over other sites with similar circumstances and zoning.
- 1.5. The reason given by the applicant for not compromising the size of the modifier signs was based on the cost of changing from a standard 2' sign to a customized 1.5' sign. The Board felt that applicant should be required to make the slight modification to bring the proposal into a greater degree of compliance with Sign Ordinance maximums.

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Case No.: BA03-040

Location: 730 East McKellips Road.

Subject: Requesting a Special Use Permit for a Comprehensive Sign Plan for the development of a Wal-Mart Neighborhood Market in the C-2 district.

Decision: Denied

Summary: Boardmember Langkilde asked Mr. Semrick if this is basically the same sign package as in his previous case BA03-039, Mr. Semrick responded that it was. There was no further discussion on this case.

Motion: It was moved by Mr. Shuff, seconded by Mr. Gniffke that case BA03-040 be denied:

Vote: Passed 6-0

Finding of Fact:

- 1.1 The proposed development includes a 39,000 sq.ft. Wal-Mart Neighborhood Market in the C-2 district.
- 1.2 The applicant requested a Comprehensive Sign Plan to increase the allowable attached sign area from 160 sq. ft. to 190 sq. ft.
- 1.3 The Board felt there were no special circumstances that existed on this site to justify an increase in attached sign area or an increase in height to the monument signs.
- 1.4. If the request to increase the amount of attached sign area were granted, the Board felt then decision would grant special privilege to this site over other sites with similar circumstances and zoning.
- 1.5. The reason given by the applicant for not compromising the size of the modifier signs was based on the cost of changing from a standard 2' sign to a customized 1.5' sign. The Board felt that applicant should be required to make the slight modification to bring the proposal into a greater degree of compliance with Sign Ordinance maximums.

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Case No.: BA03-041

Location: 1742 North Lindsay Road.

Subject: Requesting a Special Use Permit to allow outdoor activities or entertainment accessory to an existing reception center in the C-1 district.

Decision: Approved with conditions

Summary: This case was on the consent agenda and was not discussed individually. The request involved expanding the uses permitted at an existing retail store to include a reception center for outdoor weddings and receptions.

Motion: It was moved by Mr. Shuff, seconded by Mr. Crockett, that this case be approved with the following conditions:

1. Compliance with the basic site plan and project narrative, as revised, except as modified by the conditions below;
2. Compliance with all requirements of the Public Works Department;
3. Deletion of screening requirements as per case BA 98-30; and
4. Compliance with Zoning Ordinance requirements for perimeter landscaping as per the standards in place before June 20, 2002 .

Vote: Passed 6-0

Finding of Fact:

- 1.1 The 1.5 acre site is zoned C-1, and fronts Lindsay Road.
- 1.2 The 1998 zoning case approval anticipated the use of the site for weddings and receptions. Sufficient parking is present to accommodate the use in most circumstances, and the applicant has worked out an arrangement for shuttle parking in the event of larger receptions/weddings.
- 1.3 The adjoining parcels include a boarding stable to the south and a lot owned by the applicant which she intends to use for her own residence. Parcels to the north are used for residential purposes, but the owners access these parcels by way of an easement that also serves as the paved circulation drive for the case site. The residential parcels to the north are screened from the proposed outdoor reception area by 6' high masonry walls.
- 1.4 The applicant has provided a sound management plan by which the sound volume of any band or disc jockey would be lowered at 9pm, and ended by 10pm. She has also agreed to use outdoor lights that have lower heights and lower light levels.
- 1.5 As proposed, the use of this site should be compatible with and not detrimental to surrounding properties.

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Case No.: BA03-042

Location: 1215 South Country Club Drive.

Subject: Requesting a Development Incentive Permit (DIP) to allow the development of an automotive service building in the C-2 district.

Decision: Continued to the November 11, 2003.

Summary: This case was on the consent agenda and was not discussed individually.

Motion: It was moved by Mr. Lambright, seconded by Ms. Pierson, that this case be conditioned for 60 days.

Vote: Passed 6-0

Finding of Fact: N/A

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Case No.: BA03-043

Location: 3130 East Broadway Road.

Subject: Requesting a variance to allow a bulk oxygen storage tank to encroach into the side yard in the R-4 district.

Decision: Continued to the October 14, 2003.

Summary: This case was on the consent agenda and was not discussed individually.

Motion: It was moved by Mr. Lambright, seconded by Mr. Pierson that this case be continued for 30 days.

Vote: Passed 6-0

Finding of Fact: N/A

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Case No.: BA03-044

Location: 1959 East Main Street

Subject: Requesting a Development Incentive Permit (DIP) to allow for the development of an automotive dealership in the C-3 district.

Decision: Continued to the October 14, 2003.

Summary: Mr. Sheffield addressed the Board with some background on the case stating that this property is a surplus property that was sold by the City of Mesa. When the road widening came through for the corner of Gilbert and Main, the widening impacted the old Texaco station to the extent that it was detrimental to their long-term interest so the city bought the whole property. Because it was a surplus site, the City Council directed the Real Estate Services Division to dispose of the site. Consequently, the lot was sold to the current owner Sally Stephen. Mr. Sheffield indicated that the applicant, Michael Fraccola, has done a good job to place a land intensive use on a small site. The only changes staff requested (and the applicant has agreed) involve moving the customer parking spaces to the south end of the site.

Mr. Sheffield also indicated there is another issue of which staff has just recently been made aware. A letter from McKeighan Pierce Law offices representing Mr. Samuel Moses had been handed out to the Board. Mr. Moses has a 50% interest in the ownership of the property immediately west and south of the case site. The attorney representing Mr. Moses has asked that the case be continued for 60 days to give him an opportunity to fully explore the effects of the proposed Development Incentive Permit. Secondly, Mr. Moses wants to ensure that the information contained in the Staff Summary and Analysis is correct prior to the proposed hearing. In this regard, the Summary contains an error that may have been the result of information provided by the owner of the lot in question. The Staff Summary states the "buyers of the lot are the same group that owns the surrounding parcel to the south and west. ". This is not correct. The surrounding parcels are owned by Coppertree Enterprises, LLC. Sally Stephen is a 50% owner of Coppertree with Mr. Moses. Based upon the Staff Summary, Mr. Moses is concerned that the present action may negatively affect the surrounding properties. Mr. Moses wants to fully investigate this issue prior to the hearing and will need time to do this. Finally, The ownership in Coppertree, which owns the surrounding land, is the subject of an arbitration that will be held in the next sixty (60) days. The result of that arbitration may very well affect the ownership of the surrounding property.

The applicant, Mike Fraccola, addressed the board stating that he has created a site that meets the test for the Development Incentive Permit. He is aware that there is unrest amongst the ownership of the site to the west. He is also aware that, regardless of the outcome of this unrest, the case parcel is a sole and separate lot and not a part of the adjoining parcel. He has taken great strides in assuring the separation of the site by

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obtaining a separate motor vehicle license, a separate address, tax license, a separate name, signage, and corporate filings. He is asking that the Board approve the DIP request using the conditions outlined in the staff report.

Mr. Fraccola's stated that there are many independent use car dealerships operating on parcels that are a half to a third the size of the case parcel, and that the size of this property is more than adequate for a automobile dealership. He felt that he could switch the proposed inventory space with the proposed parallel parking spaces on the west to create better ingress and egress for the customer. He is proposing to improve the look of the building and landscaping. He would like to place large accent boulders in the front landscape area to make the property look more appealing to the general public.

Sally Steven addressed the Board and stated that she has purchased the case site, and that it will remain a sole and separate parcel, despite her ownership interest in the neighboring site. The case site was purchased separately with the purpose of being used for a totally separate business from the adjacent property. Mr. Fraccola is a very successful businessman and she is sure he will do very well with the proposed business and enhance the look of the old Texaco Station. She stated that she doesn't understand why the Board would entertain the 60 day continuance request proposed by Mr. Moses' attorney, believing that the case site has nothing to do with the site next door. She noted the staff report outlined how this property is to be operated and that's exactly how it will be operated.

Boardmember Shuff believes that the proposal is too intense a use for the size of the site and is not in support of the plan as proposed. Boardmember Lambright believes this is just an expansion of the business behind the site and the owner is using the DIP as a loophole to get around the code requirement for the expansion of the car lot to the south and to the west. He has concerns about the proliferation of abandoned gas stations being turned into used car lots, stating there needs to be a place for used car lots but maybe not on this major intersection. He was especially concerned the applicant is only proposing 4 feet of front landscaping. Boardmember Lambright went on to request information about the proposed enhancements to the existing building and questioned whether it would go before the Design Review (DR) Board. Mr. Sheffield informed him that a condition of approval is that it go before the DR Board. Mr. Fraccola indicated that he was on the October 1<sup>st</sup> DR agenda. Boardmember Lambright then asked that the proposal go to the DR Board first and that staff work closely with the DR staff to create a better site plan, landscape plan and elevations and then return to the Board of Adjustments. Boardmember Shuff asked if the Board continued the case for 30 day could the applicant proceed with the DR Board. Mr. Sheffield responded that if the Board is somewhat satisfied with the site plan but would like the DR Board to provide more direction as far as the design elements of the project, he could send the case to DR. The purpose of the review would be to solicit comments from the DR Board regarding the functionality of the site plan as well as review the aesthetics of the remodeling of the building. Mr. Sheffield continued by stating

